

SENATE BILL 3666

By Fowler

AN ACT to amend Tennessee Code Annotated, Title 2; Title 3; Title 4; Title 8 and Section 39-16-103, and Chapter No. ___ of the Public Acts of 2006 (SB 7001 / HB 7001), being the Comprehensive Governmental Ethics Reform Act, relative to governmental ethics.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Campaign Finance Restraint and Election Integrity Act of 2006".

SECTION 2. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following language as a new, appropriately designated section:

§2-10-3__. Within sixty (60) days preceding an election, neither a candidate nor the candidate's immediate family, as defined in §3-6-301(12), may utilize personal funds to make any contribution or loan to such candidate's campaign.

SECTION 3. Tennessee Code Annotated, Section 2-10-302, is amended by deleting subsection (b) and by substituting instead the following:

(b) No multicandidate political campaign committee shall make contributions to any candidate with respect to any election which, in the aggregate, exceed:

(1) For an office elected by statewide election, two thousand five hundred dollars (\$2,500); or, alternatively, seven thousand five hundred dollars (\$7,500) if an opposing candidate or the opposing candidate's immediate family, as defined in §3-6-301(12), contributes or lends more than fifteen thousand dollars (\$15,000) of personal funds to such opposing candidate's campaign; or

(2) For any other state or local public office, one thousand dollars (\$1,000); or, alternatively, five thousand dollars (\$5,000) if an opposing candidate

or the opposing candidate's immediate family, as defined in §3-6-301(12), contributes or lends more than ten thousand dollars (\$10,000) of personal funds to such opposing candidate's campaign.

SECTION 4. Chapter No. __ of the Public Acts of 2006 (SB 7001 / HB 7001), being the Comprehensive Governmental Ethics Reform Act, is amended by deleting the amendatory language of Section 51 and by substituting instead the following:

§2-10-3__. The contributions by an individual or member of the individual's immediate family, as defined in §3-6-301(12), shall collectively not constitute more than ten percent (10%) of the total contributions to a multi-candidate political campaign committee during any twelve (12) month period, which period shall end on September 30 each year, or to any political campaign committee controlled by a political party on the state or local level or by a caucus of such political party. Not later than October 31 each year, any amount in excess of that limit shall be returned to the individual whose contribution exceeds the limit or pro-rata if made by the individual and the individual's immediate family. No person shall contribute during such twelve (12) month period to more than a total of five (5) multi-candidate political campaign committees and political campaign committees controlled by a political party on the state or local level or by a caucus of such political party; and the total contributions to all such committees shall not exceed five thousand dollars (\$5,000) during any such period.

SECTION 5. Chapter No. __ of the Public Acts of 2006 (SB 7001 / HB 7001), is further amended by inserting the following language immediately after the first sentence in SECTION 8, §2-10-114(b)(2)(G):

The report on which such payments are reflected shall contain a statement describing the nature of the services rendered and the amount of time expended in connection with those services.

SECTION 6. Chapter No. __ of the Public Acts of 2006 (SB 7001 / HB 7001), is further amended by deleting SECTION 35, §3-6-301(12), and by substituting instead the following:

(12) "Immediate family" means a spouse, a minor child living in the household, or any other person who is a dependent of the member or spouse for purposes of federal taxation of personal income;

SECTION 7. Chapter No. __ of the Public Acts of 2006 (SB 7001 / HB 7001), is further amended by deleting the second sentence of SECTION 27, §3-6-203(a) and by substituting instead the following:

If the commission determines that the sworn complaint does not comply with §3-6-201 or does not allege or set forth facts which, if true, constitute a violation of a law or rule within the jurisdiction of the commission, then the commission shall dismiss the complaint and notify the complainant and the alleged violator.

SECTION 8. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following language as a new, appropriately designated section:

§2-10-1__. No statewide candidate for public office or candidate for the general assembly shall use any campaign contributions received by such candidate or such candidate's political campaign committee to repay, directly or indirectly, outstanding loans in connection with the candidate's campaign for election from the candidate or the candidate's immediate family, as defined in §3-6-301, after September 30 following the November regular election. Such loans that remain unpaid after September 30 shall be reported as contributions by such person making the loan on the next contribution statement filed with the registry. With regard to statewide and general assembly candidates in a special election or any other candidate for public office, such loans that remain unpaid after two hundred ten (210) days after the election in question shall be reported as contributions on the next contribution statement filed by such candidate.

SECTION 9. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following language as a new, appropriately designated section:

§2-10-3__. No multicandidate political campaign committee shall contribute more than twenty thousand dollars (\$20,000) per election to a political campaign committee controlled by a caucus of a political party established by members of either house of the general assembly. As used in this section, the term "multicandidate political campaign committee" does not include a political campaign committee controlled by a political party on the national, state, or local level.

SECTION 10. Chapter No. __ of the Public Acts of 2006 (SB 7001 / HB 7001), is further amended by adding the following language at the end of SECTION 35, §3-6-304(j):

No lobbyist shall offer or make any campaign contribution to any political campaign committee controlled by a caucus established by members of either house of the general assembly.

SECTION 11. Chapter No. __ of the Public Acts of 2006 (SB 7001 / HB 7001), is further amended by adding the following language to SECTION 32 as new, appropriately designated subsections:

(e) Tennessee Code Annotated, Section 2-10-122, is amended by adding the following language as a new, appropriately designated subdivision:

(_) "Income held in a retirement or deferred compensation plan" means income generated from investments held in a retirement or deferred compensation plan, whether or not distributed to the owner of the plan, including but not limited to:

(1) Individual Retirement Accounts (IRAs), including ROTH IRAs;

(2) Salary reduction simplified employee pension plans

(SARSEP);

- (3) Savings incentive match plans for employees (SIMPLE plans);
- (4) Cash or deferred arrangements (section 401(k) plans);
- (5) HR-10 plans (Keogh plans);
- (6) Employer annuity plans, tax-sheltered annuity plans (403(b) plans), and commercial annuity plans;
- (7) Pension plans;
- (8) Section 501(c)(18)(D) plans; or
- (9) Section 457 plans.

“Income held in a retirement or deferred compensation plan” does not mean stock-option plans;

(f) Tennessee Code Annotated, Section 2-10-128(a), is amended by deleting the following language:

This subdivision (a)(1) shall not be construed to require the disclosure of any client list or customer list, nor the address of any investment property.

and by substituting instead the following language:

This subdivision (a)(1) shall not be construed to require the disclosure of any client list or customer list, or any income held in a retirement or deferred compensation plan as defined in §2-10-122, or the address of any investment property.

SECTION 12. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following language as a new, appropriately designated section:

§2-10-1__. It is an offense for any member of the general assembly to use official stationery or campaign stationery for the purpose of initiating, delivering, distributing, sending or otherwise conveying a campaign contribution from a multicandidate political campaign committee representing a business entity. For

purposes of this section, any such written communication from a member of the general assembly included with a campaign contribution from such a multicandidate political campaign committee shall constitute prima facie evidence that such member violated the provisions of this section. A violation of this section is a Class A misdemeanor.

SECTION 13. Tennessee Code Annotated, Section 2-1-112, is amended by deleting subsection (a) and by substituting instead the following:

(a)

(1) Neither an elected official nor an employee of a state, county, municipal or federal governmental body or agency or of an elected official, either in an official capacity or as an individual, or of any business in which an elected official has any direct input concerning the employee's employment, may serve as a member of a county election commission or as a member of a county primary board or as an election official. No candidate in an election may act in connection with that election as a member of any board or commission established under this title or as an election official.

(2) During his or her term of office, a member of a county election commission may not participate in the political management or leadership of any local, state or federal political party organization or in any political candidate's campaign. No such member may make a campaign contribution to a candidate or knowingly host or sponsor a fundraiser held for the benefit of any candidate over whose election such member has jurisdiction. Violation of this subdivision subjects the member to immediate removal by the state election commission.

SECTION 14. Chapter No. ___ of the Public Acts of 2006 (SB 7001 / HB 7001), is further amended by deleting from Section 17(1) the language "or the governor or the governor's campaign committee" and by substituting instead the following:

the governor or the governor's campaign committee or any official appointed by the governor who works in state government

SECTION 15. Tennessee Code Annotated, Title 2, Chapter 11, Part 1, is amended by adding the following language as a new, appropriately designated section:

§2-11-111. During his or her term of office, a member of the state election commission may not participate in the political management or leadership of any local, state or federal political party organization, or in any political candidate's campaign, nor may such member make a campaign contribution to a candidate for governor or the general assembly or knowingly host or sponsor a fundraiser held for the benefit of any such candidate. Violation of this section subjects the commissioner to removal by unanimous vote of the other state election commissioners.

SECTION 16. Tennessee Code Annotated, Title 2, Chapter 19, Part 1, is amended by adding the following language as a new, appropriately designated section:

§2-19-145. During his or her term of office, neither the attorney general and reporter nor the comptroller of the treasury nor the secretary of state nor the state treasurer may participate in the political management or leadership of any local, state or federal political party organization or in any political campaign for a candidate for governor or the general assembly, nor may any such officer make a contribution to a candidate for governor or the general assembly or knowingly host or sponsor a fundraiser held for the benefit of any such candidate. Violation of this section is a Class A misdemeanor.

SECTION 17. Tennessee Code Annotated, Section 2-7-112, is amended by adding the following language as a new, appropriately designated subsection:

(e) Notwithstanding any provision of this chapter or any other law to the contrary, if a ballot application used pursuant to subdivision (a)(1) is not signed, or if the

computerized voter signature list used pursuant to subdivision (a)(2) is not signed, then in the event of an election contest the vote of that person shall not be counted unless the person subsequently affirms by affidavit, under oath, their current residence and that they are, in fact, the actual person who voted in the election. Upon receipt of the affidavit, the trier of fact shall determine if:

(1) The person was entitled to vote, based upon residency as set forth in the affidavit; and

(2) If the signature on the affidavit and the signature on the duplicate permanent registration record are by same individual.

If the trier of fact makes a negative finding in either instance, then the person's vote shall not be counted. If neither a ballot application nor a computerized voter signature list is signed in those counties proceeding under subdivision (a)(1), or if the computerize voter signature list is not signed in those counties proceeding under subdivision (a)(2), then the person's vote shall not be counted.

SECTION 18. Tennessee Code Annotated, Section 2-2-122(a)(4), is amended by deleting the semi-colon and by substituting instead the following:

; provided, however, in an election contest, the burden shall be upon the voter to establish to the trier of fact his or her definite intention to return if the voter has regularly habitated for more than two (2) years in a location other than that where registered to vote. In an election contest, except as provided in (a)(7), a vote shall not be counted if the place of the voter's licensing for activities such as driving or professional and recreational privileges has, for more than two (2) years, been at a place other than the place indicated in the permanent voting record.

SECTION 19. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 20. This act shall take effect upon becoming a law, the public welfare requiring it.